

## PART III - SPECIAL EDUCATION - THEORY AND PRACTICE AT DIFFERENT LEVEL

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### Human and civil rights of persons with disability in the Czech Republic at the beginning of the 21st century. Possibilities and limitations

The article will present the basic trends that can be witnessed in the Czech Republic 'at the turn of the century', in the area of perception, respect, keeping and fulfillment of human and civil rights of persons with disability.

1) **The society's relation towards persons with disability** has always been a litmus paper in history, showing the proper focus and inner life of the particular society. It especially pointed out the orientation of the society, its priorities, system of values, etc. In general, we can (in simplification) identify the following phases describing trends of the society's relation towards the disabled: 'repressive', 'charitable', and 'preventive'. Although it is possible to accept the provided division as *a guide-board*, enabling *frame* understanding of difficult evolution of relations between the majority of the society and the minority of the disabled, we cannot consider the provided opinion general nor comprehensive – catching all the aspects of these relations.

The real level of the relations inside the society, relations of the majority towards a minority, must be always thoroughly viewed *horizontally*. The provided vertical-historical conception can serve us only as an orientation lead. But it is always essential to evaluate the level of the society, its economic efficiency, the degree of organization, existence and forms of the government, existence and quality of the social security system, the prevailing ideas and meaning of the disabled, and many other indicators. Only after gathering all this knowledge can we take a stand towards the quality of life of the disabled in the given society.

We can show the danger of the 'historical view' of a given relation on a relatively new example. It is the case of the current legal regulation of the benefit for the non-barrier flat reconstruction.

In 1991 the public notice N° 182/1991 Sb. dealing with sets of benefits and allowances for people with disabilities came into existence. In §33 we can read about

the benefit for the non-barrier flat reconstruction. Most of the readers would imagine its parameters: at the most Kč 50,000 (Czech crowns) and up to the maximum 70% of the cost budget. If one wishes to rebuild a flat in the same extent and construction quality this year (2005), one will need approximately Kč 240,000. So much has the price index of construction work and construction material increased. Nevertheless, the benefit has been kept the same.

In the Czech Republic – but probably also in other countries of the so-called Soviet bloc, we often make a mistake by taking into consideration the situation that existed at the end of the communist era as the only aspect, when evaluating the development of the balanced relations. This approach is contra-productive for the helping professions. The current era has its indispensable dynamics, also in the approach of the state towards the citizens with disabilities.

2) According to the mid-term conception of the state attitude towards the persons with disabilities in the Czech Republic, we can speak about three periods:

- The initial period (1990–1992/1993). The period of fundamental social changes, that also brought a qualitative change for people with disability position: hundreds of non-state associations on civil principle come into existence. Dozens and hundreds new facilities for the support of people with disability are created, primarily in educational and social security spheres. The government committee for people with disability (established by the rule of CR N° 151 from 8/5/1991) is set up. The first National Plan of Help is accepted. There is high level of helpfulness (at the political and administrative level) while dealing with requests and needs of the disabled.
- The nineties (1993–1998/1999) Consolidation of organizations for the disabled takes place and execution by the local administrative bodies becomes professionalized. Development of the so-called non-profit sector continues, new forms and methods of work with and for the disabled are created. In the end of this period, the National Plan for Equal Opportunities for People with Disabilities is prepared. Essential precepts of laws conditioning areas closely related to the disabled (such as social security, education, transport) are accepted or amended.
- The end of the nineties up to nowadays. There is an increasing amount of questions perceived as contradictory by essential partners, i.e. political and administration representation on one hand, and representatives of the organizations for the disabled on the other. The dynamics of their solution is decreasing. The prevailing approach consists in conditioning and correcting the formerly set systems, and it often lacks their proper analysis and evaluation of effects. There is lack of will or power for solving some questions.

3) Already seven years ago, the top body of the disabled in the Czech Republic suggested to members of the CR Parliament a proposal of completing the Essential Rights and Freedoms Document with prohibition of the discrimination of the disabled.

In the regulation of the article 3 of the Essential Rights and Freedoms Document it is written:

The essential rights and freedoms are guaranteed to all without any difference of sex, race, color, language, faith and religion, politic or different opinion, national or social origin, belonging to national or ethnical minority, wealth, ancestry or different position.

As we can see the provided **anti-discrimination clause of the Czech human rights and freedoms catalogue does not content explicit assignation about prohibition of discrimination for the reason of disability existence**. The completion of the provided titles confirming prohibition of discrimination with the words 'state of health' is an absolutely rightful demand of the disabled minority. The discrimination pressures were manifested even in democratic states at the end of the 20<sup>th</sup> century. There is a difficult and complicated network of very strong and rooted discrimination traditions in the sphere of social habits and relations, architectural, educational, employment and other barriers, as well as individual attitudes and conventions about disability and people with disabilities. Integration of the group of the disabled into the article 3 of the Essential Rights and Freedoms Document becomes a question of social recognition of rights of this minority in the Czech Republic, as well as an explicit expression of the majority society's will for elimination of current discriminating trends and practices.

4) In the last part of our presentation we shall focus on the key areas, including the fulfillment as well as probable suppression and disrespecting of human rights of people with disability. At first, not by accident, we must mention the **participation of the disabled in their own matters**. For this, the following questions will be crucial:

- Are the disabled ready to become a partner (from an object to a subject);
- How do socio-political representatives perceive the disabled people's problems;
- It is not state charity;
- Do the disabled people themselves know what is important for them in terms of, for instance, prevention of social exclusion;

Secondly, we are providing education and literacy as opportunities and values that form an essential part of the future integration of each citizen with disability. In this field, it is necessary to deal with the following aspects:

- Choice of educational paths
- Special Education Support Means and their administration
- Education as the base for employment

Concerning the last point, let us provide brief information from the research that took place in 2003\*. The following chart presents answers of two respondent groups. The first group included officers of the public administration – usually clerks from departments solving social problems, and the second one – persons with disability.

\* It was a research focused on Moravia-Silesian and Hradec Králové region, included in the preparation of their regional plans for equal opportunities for people with disability.

They were usually elderly persons. They responded to the question – how would you rank, according to importance, the following spheres of disabled people's life:

Problems resulting from the disability	Persons with disability			Employees in social sphere		
	Order	Occurrence	Relative occurrence	Order	Occurrence	Relative occurrence
The state' and politicians' interest in problems of persons with disability	1.	114	52.70%	9.	48	24.00%
Unemployment	2.	60	27.80%	1.	170	85.40%
Adequate social services	2.	60	27.80%	7.	57	28.60%
Possibilities of participation in the public life	3.	57	26.40%	6.	60	30.00%
Non-barrier transport	4.	55	25.40%	2.	156	78.40%
Possibility of culture and sport utilization	5.	48	22.20%	5.	62	31.10%
Prejudices of the majority society	6.	43	19.90%	3.	73	36.70%
Early intervention for families with disabled children	7.	19	8.80%	6.	60	30.00%
Problems in communication on the side of the disabled	7.	19	8.80%	4.	65	32.50%
Possibility of education	8.	13	6.10%	8.	49	24.50%
Low literacy	9.	8	3.70%	10.	18	9.00%
I do not see any problem in the given issues		13	6.00%		6	3.00%

As it is seen, not only people with disability but also employees of public administration, significantly underestimate low educational level as a factor that can play an important role in the social exclusion of many people with disability.

Probably 'the most risky' sphere for the future, where there may be very serious risks concerning truly the essential human rights (the right for life, the right for medical health) is the situation in **providing medical care**. The basic frame of possible problems is indicated in the following presentation:

- Increasing problem – tension between economical resources and possibilities of medicine
- Can we manage to keep the actual conception of solidarity principle?
- Gene therapy or gene manipulation?

Example: The so-called interferonal treatment of patients with disseminated sclerosis costs annually approximately Kč 350,000. The benefit of an average insured person in the system costs about Kč 16,000. There are about 1,800 of the ill in the Czech Republic. It is obvious that almost 50,000 citizens cannot visit a doctor at least once a year – so that the patients with disseminated sclerosis can be treated by this modern way of rehabilitation.

The area of life of the disabled that used to be understood (but not conceived) as an immanent complement of this phenomenon is the area of providing social care (in the current terminology) and **providing social services** (in the future terminology).

The basic legislative norm modifying providing of social services has been regulation N° 100/88 Sb. about social security, from the year 1988. This law concerns only two social services, institutional social care and day care. With regard to its concept, it has become the source of continual strain between the possibilities or needs of the new practice and out-of-date inconvenient enactment. This conflict has eventually found several concrete formulations. The first one was the choice of social service by the user. The former practice and also the enactment did not anticipate such a possibility. Nevertheless, creating a new offer of alternative forms of services logically leads to users' demand of their free choice among them. However the **inequality of social services offers** stands in opposition. They do not have equal access to the public resources. Besides inequality of the offers, also **inequality of the social services users** exists. While the benefit for a child living in a social welfare institution comes to more than 10–15 thousands Kč, a family that takes care about a child in their home receives from the state a three times lower amount of money. The mentioned inequalities should be solved by the new **law about social services\*\*** which thus represents progress in fulfilling human and civil rights of people (with disability, seniors, etc.) The suggested date for its enforcement is 1/1/2007.

This law can change the disabled people's position (also seniors) in a significant way, by the term 'users of social services'. It concerns especially the following institutions that represent the change of up-to-now state in the Czech republic:

- Social care benefit – inhabitants dependent on care of another person will receive a monthly benefit according to the degree of their dependency: 2,000 – 4,000 – 8,000 – 11,000 Kč, for which they will 'buy' the social services. (the average salary in the Czech Republic is ca. Kč 20,000);
- Agreement about social services – placement in the social care institution, seniors' rest homes and other institutions will not be dependent on the statutory decision (local authorities) any more, but on private decision and agreement of both sides;
- Social services standards – the law will impose obligatory standards and rules of action for the social service offers – so called Standards that the provider needs to keep.
- Registration and inspection – the law creates process rules for the service providers and introduces inspection of their activity quality.

The law is a positive contribution to the improvement of the human and civil rights system for the disabled. There are also real risks that threaten thousands of users. Providers are being prepared for the new situation by a series of systematic activities: methodical, training, and legislative, by social service standard institutes, etc. the result of this is that the providers will always be –also in the future- endowed

\*\* Law 108/2006 Sb. about social services.

with the higher level of personal, organizational and administrative ‘authority’ in the approach to potential applicants for social service. The lack of former equality of service providers is most significant in residential institutions of social care – ‘institutional establishment’. **It is absolutely inevitable to propose a new system of social services users preparation**, reflecting the fundamental change that will come with the new enactment.

The key areas that in the future will undergo discussion concerning realization of human and civil rights of citizens with disability will also include ‘finance’. We do not understand this expression as an official one for a greater amount of money, but as an expression denoting a department led by ministry of finance. It is decisive that **the flow of financial means to a chosen segment (concerning people with disability) is behind**. Concerning any of the benefits – benefit for the non-barrier flat reconstruction, benefit for running a motor vehicle, or concerning an immense deficit in social care financing – we always meet the same statement ‘there is no money for that’.

5) In conclusion of the presentation, three simple questions should be posed in connection with searching for an answer to a question whether human and civil rights of people with disability in the present time (not only in the Czech Republic) are fulfilled. By finding an answer to them we can get to know whether holding presentations similar to this one in the future makes sense.

*Does a citizen of different color have the right to go by the same tram with us?* **YES**

*Does a child with disability have the right to attend a school with us?* ???

*Does a person with disability have the right to get out of his own flat?* ???

## **Prawa człowieka oraz obywatela na przykładzie osób niepełnosprawnych w Republice Czeskiej na początku XXI wieku. Perspektywy i ograniczenia**

### **Streszczenie**

Artykuł przedstawia podstawowe trendy, jakie można zaobserwować w Republice Czeskiej „u progu nowego stulecia” w sferze postrzegania, szacunku, zachowywania i przestrzegania praw człowieka i praw obywatelskich osób niepełnosprawnych.

Stosunek danego społeczeństwa do osób niepełnosprawnych był zawsze „papierkiem lakmusowym” historii, ponieważ ukazywał jego życie wewnętrzne i określał, na czym skupiała się uwaga społeczna. W przypadku Republiki Czeskiej, w historii stosunku państwa do osób niepełnosprawnych można wyodrębnić trzy okresy, które zostaną pokrótce omówione wraz z ich praktycznymi konsekwencjami.

- Okres początkowy (1990–1992/1993). Okres fundamentalnych zmian społecznych, który przyniósł też zmianę jakościową pozycji osób niepełnosprawnych. Powstały set-

ki niepaństwowych stowarzyszeń opartych na prawie obywatelskim. Stworzono nowe udogodnienia służące wsparciu osób niepełnosprawnych, głównie w obszarze edukacji i opieki społecznej. Rządowa komisja ds. osób niepełnosprawnych (powołana przez rząd czeski na podstawie ustawy nr 151 z dnia 8/5/1991). Przyjęcie pierwszego Narodowego Planu Pomocy. Ogromna otwartość (na szczeblu politycznym i administracyjnym) przy rozważaniu próśb i potrzeb osób niepełnosprawnych.

- Lata dziewięćdziesiąte (1993–1998/1999). Zjednoczenie organizacji służących osobom niepełnosprawnym, utworzenie profesjonalnych jednostek administracyjnych odpowiedzialnych za dany obszar. Dalszy rozwój tzw. sektora non-profit, powstają nowe formy i metody pracy z i dla osób niepełnosprawnych. Pod koniec tego okresu przygotowany zostaje Narodowy Plan Równych Szans dla Osób Niepełnosprawnych. Najważniejsze nakazy prawne określające dziedziny ściśle dotyczące osób niepełnosprawnych (np. opieka społeczna, edukacja, transport) zostają przyjęte lub poprawione.
- Koniec lat dziewięćdziesiątych do chwili obecnej. Rośnie ilość problemów postrzeganych przez kluczowych partnerów, tj. z jednej strony reprezentacji polityczno-administracyjnej, a z drugiej przedstawicieli organizacji osób niepełnosprawnych – wzajemne sprzeczności. Dynamika ich rozwiązywania obniża się. Przeważa podejście warunkujące i poprawiające poprzednio uformowane systemy, często przy braku ich odpowiedniej analizy i oceny wyników.